

REMARKS

Reconsideration and withdrawal of all grounds of rejection contained in the Office Action are respectfully requested in light of the above amendments and the following remarks. Base claims 1 and 11 have been amended, no new matter has been added. Claims 1-14 are pending herein.

The disclosure was objected to for informalities. Applicants gratefully acknowledge the Office Action's suggestion to add section headings to the specification (under 37 CFR 1.77(b), however respectfully decline to add the headings as they are not required in accordance with MPEP §608.01(a).

Such section headings are not statutorily required for filing a non-provisional patent application under 35 USC 111(a), but per 37 CFR 1.51(d) are only guidelines that are suggested for applicant's use. They are not mandatory, and in fact when Rule 77 was amended in 1996 (61 FR 42790, Aug. 19, 1996), Bruce A. Lehman, Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, stated in the Official Gazette:

"Section 1.77 is permissive rather than mandatory. ... 1.77 merely expresses the Office's preference for the arrangement of the application elements. The Office may advise an applicant that the application does not comply with the format set forth in 1.77, and suggest this format for the applicant's consideration; however, the Office will not require any application to comply with the format set forth in 1.77."

Miscellaneous Changes in Patent Practice, Response to comments 17 and 18 (Official Gazette, August 13, 1996) [Docket No: 950620162-6014-02] RIN 0651-AA75.

A later amendment to 37 CFR 1.77 (65 FR 54628)

<http://www.uspto.gov/web/offices/com/sol/notices/patbusgoals.pdf>) does not change this.

Claims 1-14 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. According to the Office Action, the term “mutually varying degrees of significance” in claims 1, 11 and 13 is a relative term which renders the claims indefinite.

Claims 1-14 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Hiroyuki Fujita (U.S. 5,819,290, hereafter “Fujita”).

Applicants respectfully submit that the amendments made to claims 1, 11 and 13 overcome all of the rejections listed above. In particular, base claim 1 has been amended to recite (*inter alia*): providing a data file representing a data item, the data file being composed of **prioritized** blocks of **data with each block having a** mutually varying degrees of significance, wherein said blocks are of a length corresponding to a length of a sector of said data carrier... Base claim 11 recites similar limitations for a Data Carrier.

Applicants respectfully submit the term “prioritized blocks of data with each block having a mutually varying degree of significance” is fully supported in the Specification on page 1, line 3-14. In particular, the section describes that a “digital data item to be stored is first divided into successive data pieces of decreasing significance.... In case the memory does not have enough space, space is created by removing from the memory those data pieces from various items that have the lowest significance.”

Applicants respectfully submit that Fujita does not disclose, suggest, or provide an apparatus wherein the data file is composed of prioritized blocks of data with each block having a mutually varying degree of significance.

Accordingly, it is respectfully submitted that at least for the reasons indicated above, instant base claims 1 and 11 are patentable. With regard to the rejection under 35 U.S.C. §102(b), the Court of Appeals for Federal Circuit has held that:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628,631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).


In the present application, it is respectfully submitted that Fujita fails to disclose each and every element as set forth in base claims 1 and 11. Nor would a person of ordinary skill in the art have found any of the instant claims obvious in view of Fujita.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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